

Application No. 10/047,545
Reply to Office Action dated November 11, 2005
Reply to Office Action of August 10, 2005

truncated side, and a thread, "said at least one truncated side having a truncated portion between said thread and said leading end." Under the "Response to Arguments" section of the Office Action, the Examiner contends that "[t]he entire implant has threads on it and the entire implant is truncated." (Office Action, page 2, paragraph 3). Applicant respectfully disagrees with the Examiner's contention. Zdeblick teaches a fusion device 10 having a body 11 with truncated sidewalls that "extend from the anterior end 12 of the device up to the complete threads 19 at the posterior end 13." (Zdeblick col. 6, lines 18-20; Fig. 2 (emphasis added)). The portion between thread 19 and the leading end of the fusion device of Zdeblick is not truncated. (See Zdeblick, Figs. 2 and 8). Accordingly, Applicant submits that independent claim 154 is allowable over Zdeblick and that dependent claims 155-166 are allowable at least due to their dependency from an allowable independent claim, or claims dependent therefrom.

Independent claim 169 recites a spinal fusion implant having a body having a substantially cylindrical configuration, at least one truncated side, and a thread for engaging said implant to the adjacent vertebral bodies of the spine, "the locus of said thread forming a substantially cylindrical configuration." The locus of threads 18 and 19 of the Zdeblick fusion device do not form a substantially cylindrical configuration. (See, e.g., Zdeblick, Fig. 3). Accordingly, Applicant submits that independent claim 169 is patentable over Zdeblick and that dependent claims 170-194 are allowable at least due to their dependency from an allowable independent claim, or claims dependent therefrom. Applicant submits that the rejection under 35 U.S.C. § 102(e) has been overcome.

Applicant submits that independent claims 154 and 169 are patentable and that dependent claims 155-166, 168, and 170-194 dependent from one of independent claims 154 and 169, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

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In view of the foregoing remarks, it is respectfully submitted that the claims are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

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